IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FERA NO.40 OF 2006

Director of Enforcement ..Appellant.

V/s.

M/s.Mackinnon Mackenzie & Co. Ltd. ..Respondent.

Mr.R.V.Desai, senior counsel with A.S.Rao Mrs.N.V. Masurkar and S.V.Bharucha i/b. T.C. Kaushik for appellant.

Mr.Rohit Kapadia, senior counsel with P.D.Gandhy with S. Vedpathak for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 24TH AUGUST, 2007.

P.C. :-

We have heard the learned counsel for the parties. In our opinion, the matter requires reconsideration by the Appellate Tribunal.

2. On behalf of the respondents, learned counsel submits that they be permitted to raise additional ground which if decided can dispose of the appeal. That ground was not raised or answered before the Tribunal.

3. Considering the facts and circumstances, we are of the opinion, that the ends of justice would be

met if the impugned order is set aside and the matter remanded back to the Appellate Tribunal for Foreign Exchange to decide the appeal afresh. We make it clear that we have not decided any issue on merits and leave all the grounds and contentions of both the sides to be considered by the appellate authority. The appeal disposed of accordingly. There shall be no order as to costs.

4. All interim orders passed by this Court shall continue till the final disposal of the appeal by the Appellate Court.

5. We make it clear that the Tribunal will decide the appeal on merits as the issue of pre-deposit has been answered in favour of the respondent pursuant to the order of this Court previously.

6. Appeal disposed of accordingly.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)